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EXAMINER	
DIXON, THOMAS A	

ART UNIT	PAPER NUMBER
3639	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/847,323	CORNWELL, TREVOR	
	Examiner	Art Unit	
	Thomas A. Dixon	3639	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 May 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-72* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-72* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. A telephone restriction requirement regarding the bidding of claim 56 was made, because it was seen to be an invention different from the reservation system, but withdrawn after it was seen that claims 36-38 and 71-72 are linking claims.

Claim Objections

2. Claims 37-38 are objected to because of the following informalities:

as per claims 37-38 the claims refer to "a user" it appears that this would be "the" or "said" user as the user is introduced in the parent claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 112 1st Paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 52 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, support could not be found for the calendar feature.

Claim Rejections - 35 USC § 112 2nd Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-55, 57-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

as per claim 1, the preamble of the claim is to "a method for pricing and reserving," but it is not until claims 36-38 and claim 54 that the claims refer "reserving the user selected charter aircraft."

as per claim 3, the name "jeppesson" is assumed to mean "jeppesen" the provider of GPS and VFR (topological) aeronautical navigation products.

as per claim 39, the phrase "reserving the user selected charter aircraft" lacks antecedent basis.

as per claims 47, 48, the phrase "maximum comfort" is indefinite as maximum comfort is a subjective determination.

as per claim 57, the preamble of the claim is to "a method for pricing and reserving," but it is no reserving is performed.

as per claim 58, the preamble of the claim is to "a method for pricing and reserving," but it is no reserving is performed.

as per claim 59, the preamble of the claim is to "a system for scheduling and reserving," but it is not until claim 65 that the claims refer "reserving the user selected charter aircraft."

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-72 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is not within the technological arts.

6. As an initial matter, the United States Constitution under Art. I, §8, cl. 8 gave Congress the power to "[p]romote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In carrying out this power, Congress authorized under 35 U.S.C. §101 a grant of a patent to "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition or matter, or any new and useful improvement thereof." Therefore, a fundamental

premise is that a patent is a statutorily created vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of whether an invention is eligible for a patent is to determine if the invention is within the "technological arts".

7. Further, despite the express language of §101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by §101. These exceptions include "laws of nature", "natural phenomena", and "abstract ideas". See *Diamond v. Diehr*, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete and tangible result." See *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998).

8. This "two prong" test was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). In *Toma*, the court held that the recited mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-Walter-Abele test as applied to *Gottschalk v. Benson,* 409 U.S. 63, 175 USPQ (BNA) 673 (1972). Additionally, the court decided separately on the issue of the "technological arts". The court developed a "technological arts" analysis:

> The "technological" or "useful" arts inquiry must focus on whether the claimed subject matter...is statutory, not on whether the product of the claimed subject matter...is statutory, not on whether the prior art which the claimed subject matter purports to replace...is statutory, and not on whether the claimed subject matter is presently perceived to be an improvement over the prior art, e.g., whether it "enhances" the operation of a machine. *In re Toma* at 857.

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that

the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer.

9. The decision in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* never addressed this prong of the test. In *State Street Bank & Trust Co.*, the court found that the "mathematical exception" using the Freeman-Walter-Abele test has little, if any, application to determining the presence of statutory subject matter but rather, statutory subject matter should be based on whether the operation produces a "useful, concrete and tangible result". See *State Street Bank & Trust Co.* at 1374. Furthermore, the court found that there was no "business method exception" since the court decisions that purported to create such exceptions were based on novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that "[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but rather under §§102, 103 and 112." See *State Street Bank & Trust Co.* at 1377. Both of these analysis goes towards whether the claimed invention is non-statutory because of the presence of an abstract idea. Indeed, *State Street* abolished the Freeman-Walter-Abele test used in *Toma*. However, State Street never addressed the second part of the analysis, i.e., the "technological arts" test established in *Toma* because the invention in *State Street* (i.e., a computerized system for determining the year-end income, expense, and capital gain or loss for the portfolio) was already determined to be within the technological arts under the *Toma* test. This dichotomy has been recently acknowledged by the Board of Patent Appeals and Interferences (BPAI) in affirming a §101 rejection finding the claimed invention to be non-statutory. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

10. As per claim 1.
The claim is to a method of using a computer to receive an itinerary and transmit a charter price, but no transformation of the data by the computer. Claims 48-51 bring in explicit mention of a computerized database and networks, but still no transformation of data, and it is therefore not seen to be in the technological arts.

11. As per claim 56.
The claim is to a method for bidding on and reserving charter air services using a computer to transmit a posting, but no transformation of the data by the computer, and it is therefore not seen to be in the technological arts.

12. As per Claim 57.
The claim is to a method of using a computer to receive an itinerary and transmit a charter price, but no transformation of the data by the computer, and it is therefore not seen to be in the technological arts.

13. As per Claim 58.
The claim is to a method of using a computer to receive an itinerary and transmit a total lowest charter price, but no transformation of the data by the computer, and it is therefore not seen to be in the technological arts.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

14. Claims 1, 7, 9, 12, 15, 18, 23, 34-35, 39, 48-55, 57, 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosenblatt (6,711,548).

As per Claim 1.
Rosenblatt ('548) discloses:
receiving itinerary information from a user including at least one departure location, at least one destination and at least one departure date, see figure 2 (32,34).
accessing a charter aircraft information database containing information about a plurality of charter aircraft, see figure 1 (12, 16,18,20, 26);
identifying a suitable charter aircraft by comparing the itinerary information with charter aircraft information, see figure 2 (40);
determining a charter price for at least one of the identified suitable charter aircraft, see column 8, lines 16-29; and

transmitting the charter price accompanied by corresponding charter aircraft information for the at least one identified suitable charter aircraft for which a charter price has been determined, see column 6, lines 50-55.

As per Claim 7.
Rosenblatt ('548) further discloses the aircraft operators update the database of charter aircraft information, see column 4, lines 44–52.

As per Claim 9.
Rosenblatt ('548) further discloses determining a charter price comprises:
obtaining a cost of operating each aircraft from the database, see column 7, lines 56–67;
calculating a flight factor for each aircraft from the user's departure location to the user's destination, see column 7, line 56 – column 8, line 6; and
calculating a total charter price based on the operating cost and the calculated flight factor for each of the aircraft, wherein the flight factor is at least one of an approximate flight time between the departure and destination location and an approximate flight distance between the departure location and the destination location, see column 3, lines 2-28.

As per Claim 12
Rosenblatt ('548) further discloses:
calculating a repositioning factor, see column 8, lines 16-18;
determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor, see column 8, lines 16-18.

As per Claim 15
Rosenblatt ('548) further discloses:
calculating a relocation factor, if applicable, see column 8, lines 16-18;
determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated relocation factor, see column 8, lines 16-18.

As per Claim 18.
Rosenblatt ('548) further discloses:
calculating a repositioning factor, see column 8, lines 16-18;
calculating a relocation factor, if applicable, see column 8, lines 16-18;
determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

As per Claim 23.
Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62.

As per Claim 34.

Rosenblatt ('548) further discloses calculating additional costs and calculating total charter prices based on the calculated additional costs, see column 7, line 35 – column 8, line 18.

As per Claim 35.
Rosenblatt ('548) further discloses the additional costs include extra operator costs based on duration, see column 7, line 35 – column 8, line 18.

As per Claim 39.
Rosenblatt ('548) further discloses reserving further comprises receiving a notifying the owner of the specified charter aircraft, see column 6, lines 64-67 and column 8, lines 2-6.

As per Claim 48.
Rosenblatt ('548) further discloses the charter aircraft information is computerized and the database is accessible via global computer networks, see column 5, lines 24-44.

As per Claim 49.
Rosenblatt ('548) further discloses the charter aircraft information is computerized and the database is accessible via a network, see column 5, lines 24-44.

As per Claim 50.
Rosenblatt ('548) further discloses the itinerary information is inputted by the user through a global computer networks, see column 5, lines 24-44.

As per Claim 51.
Rosenblatt ('548) further discloses the network is the World Wide Web, see column 5, lines 24-44.

As per Claim 57.
Rosenblatt ('548) discloses:
receiving itinerary information from a user including at least one departure location, at least one destination and at least one departure date, see figure 2 (32,34).
accessing a charter aircraft information database containing information about a plurality of charter aircraft, see figure 1 (12, 16,18,20, 26);
identifying a suitable charter aircraft by comparing the itinerary information with charter aircraft information, see figure 2 (40);
calculating a flight cost for the suitable charter aircraft from the user's at least one departure location to the user's at least one destination location, see column 8, lines 16-29;

determining the applicability of relocating each of the identified suitable charter from the user's at least one destination location to at least one post-charter location, see column 8, lines 16-18;

calculating a relocation cost, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning cost and the calculated relocation cost, see column 8, lines 16-18; and

transmitting the charter price accompanied by corresponding charter aircraft information for the at least one identified suitable charter aircraft for which a charter price has been determined, see column 6, lines 50-55.

As per Claim 59.

Rosenblatt ('548) discloses:

means for receiving itinerary information from a user including at least one departure location, at least one destination and at least one departure date, see figure 2 (32,34).

means for accessing a charter aircraft information database containing information about a plurality of charter aircraft, see figure 1 (12, 16,18,20, 26);

means for assessing a charter aircraft, see figure 2 (40);

means for comparing the itinerary information with charter aircraft information, see figure 2 (40);

means for determining a charter price for at least one of the identified suitable charter aircraft, see column 8, lines 16-29; and

means for transmitting the charter price accompanied by corresponding charter aircraft information for the at least one identified suitable charter aircraft for which a charter price has been determined, see column 6, lines 50-55.

As per Claims 60-62.

The limitations of the claims do not distinguish the claimed apparatus from the prior art.

As per Claim 63.

Rosenblatt ('548) further discloses a global computer network, see column 5, lines 37-41.

As per Claim 64.

Rosenblatt ('548) further discloses a means for receiving a selection of at least one charter from a transmitted list of at least one charter aircraft from a user, see column 6, lines 33-34.

As per Claim 65.

Rosenblatt ('548) further discloses a means for reserving, see column 6, lines 33-34.

As per Claim 66.
Rosenblatt ('548) further discloses a means for sending, receiving and processing a manifest from a user, see column 6, lines 33-34.

As per Claim 67.
Rosenblatt ('548) further discloses a means for notifying the charter aircraft operator of the user's reservation of the selected charter aircraft, see column 6, lines 33-67.

As per Claim 68.
Rosenblatt ('548) further discloses a means sending a reservation confirmation, see column 6, lines 33-66.

As per Claim 69.
Rosenblatt ('548) further discloses a means for reconfirming the reservation of the user selected charter aircraft, see column 6, lines 33-66.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. Claim 2-6, 41-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt (6,711,548) in view of Daughtrey (6,801,226) in view of Official Notice.

As per Claim 2, 41.
Rosenblatt ('548) further discloses accessing an airport information database and identifying a suitable aircraft, see column 7, line 63 – column 8, line 2, but does not specifically disclose identifying suitable charter aircraft determining whether the aircraft are compatible with airports within a prescribed radius of the user's departure and destination locations.
Daughtrey ('226) teaches cost savings features including identifying alternative airports to provide the lowest cost alternatives, see figures 2(58), 3 (74c), 4 (74b), for the benefit of saving the customer time and money.
Official Notice is taken that it is old and well known in the air traffic arts to take the compatibility of aircraft to airports into consideration when picking an airport, for example, no airplane larger than a 272 can land at Reagan National Airport because the

runway is too short for a larger airplane to take off and land, for the benefit of taking passenger safety into consideration.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to determine whether the aircraft are compatible with airports within a prescribed radius of the user's departure and destination locations, for the benefit of taking passenger safety into consideration.

As per Claim 3, 42.

Rosenblatt ('548) does not specifically disclose the airport information is Jeppesson airport database.

Official Notice is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an existing industry standard database for the benefit of cost savings in the compilation and maintenance of the database. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use the Jeppesson database for the benefit of cost savings in the compilation and maintenance of the database.

As per Claim 4.

Rosenblatt ('548) further discloses maintaining a database of charter aircraft information, see column 5, lines 38–42.

As per Claim 5.

Rosenblatt ('548) further discloses:

determining the status of each aircraft, determining whether each aircraft has appropriate flight characteristics and determining whether each aircraft has a present location within a prescribed radius of the user's designated at least one departure location, see column 6, lines 18–27.

As per Claim 6.

Rosenblatt ('548) further discloses occupancy capacity of the aircraft, see column 6, lines 42–44.

As per Claim 43.

Rosenblatt ('548) does not disclose the radius is 50 miles,

Daughtrey ('226) teaches a 50 mile radius, see figure 2(58) for the benefit of saving the customer time and money.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to search for airports within a prescribed radius of the user's departure and destination locations, for the benefit of saving the customer time and money.

As per Claim 44.

Rosenblatt ('548) does not disclose sorting by lowest price,

Daughtrey ('226) teaches sorting by lowest price, see figure 3(73a) for the benefit of saving the customer time and money.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to sort by lowest price, for the benefit of saving the customer time and money.

As per Claim 45.

Rosenblatt ('548) does not disclose sorting by fastest trip,

Daughtrey ('226) teaches sorting by fastest trip, see figures 4(All options, duration) for the benefit of saving the customer time and money.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to sorting by fastest trip, for the benefit of saving the customer time and money.

As per Claim 46.

Rosenblatt ('548) does not disclose sorting by maximum comfort,

Daughtrey ('226) teaches sorting by lowest cost and fastest trip, see figures 3(73a) and 4(All options, duration) for the benefit of saving the customer time and money.

Official Notice is taken that multiple sorts are well known in the air travel arts as shown by Daughtrey ('226) above, and searching by maximum comfort would be an obvious variation for the benefit of giving the customers more options in choosing air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to sort by maximum comfort for the benefit of giving customers more options in choosing air travel.

As per Claim 47.

Rosenblatt ('548) does not disclose sorting by lowest price, fastest trip and maximum comfort,

Rosenblatt ('548) does not disclose sorting by maximum comfort,

Daughtrey ('226) teaches sorting by lowest cost and fastest trip, see figures 3(73a) and 4(All options, duration) for the benefit of saving the customer time and money.

Official Notice is taken that multiple sorts are well known in the air travel arts as shown by Daughtrey ('226) above, and searching by maximum comfort would be an obvious variation for the benefit of giving the customers more options in choosing air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to sort by maximum comfort in addition to the known low cost and fast trip sorts for the benefit of giving customers more options in choosing air travel.

16. Claim 8, 58 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt (6,711,548) in view of AirCharter.

As per Claim 8.
Rosenblatt ('548) does not disclose receiving a request for the lowest price.
AirCharter teaches calculating the total cost and displaying the most cost-effective solution for the benefit of saving time and money.
Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to determine the best price for the benefit of saving the customer time and money.

As per Claim 58.
Rosenblatt ('548) discloses:
receiving itinerary information from a user including at least one departure location, at least one destination and and at least one departure date, see figure 2 (32,34).
accessing a charter aircraft information database containing information about a plurality of charter aircraft, see figure 1 (12, 16,18,20, 26);
identifying a suitable charter aircraft by comparing the itinerary information with charter aircraft information, see figure 2 (40);
calculating a flight cost for the suitable charter aircraft from the user's at least one departure location to the user's at least one destination location, see column 8, lines 16-29;
determining the applicability of relocating each of the identified suitable charter from the user's at least one destination location to at least one post-charter location, see column 8, lines 16-18;
calculating a relocation cost, if applicable, see column 8, lines 16-18;
determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning cost and the calculated relocation cost, see column 8, lines 16-18; and
transmitting the charter price accompanied by corresponding charter aircraft information for the at least one identified suitable charter aircraft for which a charter price has been determined, see column 6, lines 50-55.
Rosenblatt ('548) does not disclose determining the best price.
AirCharter teaches calculating the total cost and displaying the most cost-effective solution for the benefit of saving time and money.
Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to determine the best price for the benefit of saving the customer time and money.

17. Claim 10, 11, 13-14, 16-17, 19-22, 24-26, 28-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt (6,711,548) in view of Official Notice.

As per Claim 10, 13, 16, 19, 25.

Rosenblatt ('548) further discloses the database contains longitude and latitude in the database, see column 7, line 67 – column 8, line 1, but does not disclose elevation.

Official Notice is taken that elevation (VFR) of an airport is old and well known as provided by Jeppesen aeronautical information products in addition to longitude and latitude data.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use Jeppesen VFR data for the benefit of using industry standard information.

As per Claim 11, 14, 17, 20, 22, 26.

Rosenblatt ('548) further discloses a variety of permutations may be formulated for arriving at ticket pricing, see column 8, lines 18–20, but does not specifically disclose taking into account grid winds.

Official Notice is taken that it is old and well known to take winds into consideration in air travel, for the benefit of better estimating flight time.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to take grid winds into consideration for the cost because of their effect on flight time.

As per Claim 21.

Rosenblatt ('548) further discloses:

obtaining a cost of operating each of the suitable charter aircraft from the charter information database, see column 7, line 36 – column 8, line 28;

calculating a repositioning factor, see column 8, lines 16-18;

calculating a relocation factor, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

Rosenblatt ('548) further discloses a variety of permutations for arriving at ticketing prices, but does not disclose calculating the first, second and third flight times, repositioning cost, relocation cost as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate the first, second and third flight times, repositioning cost, relocation cost as recited for the benefit of making money in air travel.

As per Claim 24.

Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62, double booking to minimizing dead trips, and a variety of permutations may be

formulated for arriving at ticket pricing, see column 8, lines 7-28, but does not specifically disclose calculating the total flight factor and total charter price as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate the total flight factor and total charter price as recited for the benefit of making money in air travel.

As per Claim 28.

Rosenblatt ('548) further discloses:

obtaining a cost of operating each of the suitable charter aircraft from the charter information database, see column 7, line 36 – column 8, line 28;

calculating a repositioning factor, see column 8, lines 16-18;

calculating a relocation factor, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62, double booking to minimizing dead trips, and a variety of permutations may be formulated for arriving at ticket pricing, see column 8, lines 7-28, but does not specifically disclose calculating inbound, outbound and total flight factor and total charter price as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate inbound, outbound and total flight factor and total charter price as recited for the benefit of making money in air travel.

As per Claim 29.

Rosenblatt ('548) further discloses:

obtaining a cost of operating each of the suitable charter aircraft from the charter information database, see column 7, line 36 – column 8, line 28;

calculating a repositioning factor, see column 8, lines 16-18;

calculating a relocation factor, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62, double booking to minimizing dead trips, and a variety of permutations may be formulated for arriving at ticket pricing, see column 8, lines 7-28, but does not specifically disclose calculating outbound repositioning cost and total charter price as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate outbound repositioning cost and total charter price as recited for the benefit of making money in air travel.

As per Claim 30.

Rosenblatt ('548) further discloses:

obtaining a cost of operating each of the suitable charter aircraft from the charter information database, see column 7, line 36 – column 8, line 28;

calculating a repositioning factor, see column 8, lines 16-18;

calculating a relocation factor, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62, double booking to minimizing dead trips, and a variety of permutations may be formulated for arriving at ticket pricing, see column 8, lines 7-28, but does not specifically disclose calculating inbound repositioning cost and total charter price as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate inbound repositioning cost and total charter price as recited for the benefit of making money in air travel.

As per Claim 31.

Rosenblatt ('548) further discloses:

obtaining a cost of operating each of the suitable charter aircraft from the charter information database, see column 7, line 36 – column 8, line 28;

calculating a repositioning factor, see column 8, lines 16-18;

calculating a relocation factor, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62, double booking to minimizing dead trips, and a variety of permutations may be formulated for arriving at ticket pricing, see column 8, lines 7-28, but does not specifically disclose calculating outbound relocation cost and total charter price as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate outbound relocation cost and total charter price as recited for the benefit of making money in air travel.

As per Claim 32.

Rosenblatt ('548) further discloses:

obtaining a cost of operating each of the suitable charter aircraft from the charter information database, see column 7, line 36 – column 8, line 28;

calculating a repositioning factor, see column 8, lines 16-18;

calculating a relocation factor, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62, double booking to minimizing dead trips, and a variety of permutations may be formulated for arriving at ticket pricing, see column 8, lines 7-28, but does not specifically disclose calculating inbound relocation cost and total charter price as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate inbound relocation cost and total charter price as recited for the benefit of making money in air travel.

As per Claim 33.

Rosenblatt ('548) further discloses:

obtaining a cost of operating each of the suitable charter aircraft from the charter information database, see column 7, line 36 – column 8, line 28;

calculating a repositioning factor, see column 8, lines 16-18;

calculating a relocation factor, if applicable, see column 8, lines 16-18;

determining a total charter price for each of the suitable charter aircraft based on the calculated flight cost, the calculated repositioning factor and the calculated relocation factor, see column 8, lines 16-18.

Rosenblatt ('548) further discloses multi-leg flights, see column 6, lines 61-62, double booking to minimizing dead trips, and a variety of permutations may be formulated for arriving at ticket pricing, see column 8, lines 7-28, but does not specifically disclose calculating layover cost and total charter price as recited.

Official Notice is taken that it would have been obvious to one or ordinary skill in the air travel industry to use any permutation of calculations to determine ticketing prices for the benefit of making money in air travel.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to calculate layover cost and total charter price as recited for the benefit of making money in air travel.

18. Claim 27, 40, 52, 54, 70 is rejected under 35 U.S.C. 103(a) as being

unpatentable over Rosenblatt (6,711,548) in view of Daughtrey (6,801,226).

As per Claim 27.

Rosenblatt ('548) further discloses obtaining a cost of operating each suitable charter aircraft, see column 7, line 40 – column 8, line 28, but does not specifically disclose receiving a round-trip designation.

Daughtrey ('226) teaches round-trip designation, see figure 2(54b), for the benefit of giving customers travel options.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include a round trip designation for the benefit of giving customers travel options.

As per Claim 40.

Rosenblatt ('548) does not specifically disclose a prescribed radius of the departure or destination or the lowest cost.

Daughtrey ('226) teaches cost savings features including identifying alternative airports to provide the lowest, see figures 2(58), 3 (74c), 4 (74b), for the benefit of saving the customer time and money.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to identify alternative airports within a radius and give the lowest cost for the benefit of giving customers travel options.

As per Claim 52.

Rosenblatt ('548) does not specifically disclose access to a calendar feature enabling the user to conveniently select a departure date.

Daughtrey ('226) teaches a calendar option, see figure 2(56a), for the benefit of giving customers travel options.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include access to a calendar option for the benefit of giving customers travel options.

As per Claim 70.

Rosenblatt ('548) further discloses information for at least one of the identified suitable charter aircraft for which a charter prices has been determined, but does not specifically disclose:

means for identifying alternative airports based on proximity to the user's designated departure location and the user's designated destination location;

means for calculating a lowest charter price based on the alternative airports for at least one of the identified suitable charter aircraft; and

means for transmitting the lowest charter price accompanied corresponding alternative airport information.

Daughtrey ('226) teaches cost savings features including identifying alternative airports to provide the lowest, see figures 2(58), 3 (74c), 4 (74b), for the benefit of saving the customer time and money.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include:

means for identifying alternative airports based on proximity to the user's designated departure location and the user's designated destination location;

means for calculating a lowest charter price based on the alternative airports for at least one of the identified suitable charter aircraft; and

means for transmitting the lowest charter price accompanied corresponding alternative airport information for the benefit of saving the customer time and money.

19. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shemesh (6,847,939) in view of BidJetCharter.

As per Claim 56.

Shemesh ('939) discloses:

receiving a posting specifying pertaining products stored in the server, such as product description, quantity offered and a reserve price, see column 5, lines 4-67;

transmitting the posting, see column 5, lines 4-10;

receiving, before the auction end time, an initial price bid, that is equal to or greater than the starting price, see column 5, lines 56-58;

enabling users to specify at least one higher bid before the auction end time, see column 5, lines 58-59;

determining the greatest bid at the auction end time, see column 5, lines 64-67.

Shemesh further discloses the auctioning of airline tickets and instructions for the winning bidders to purchase tickets, see column 1, lines 33-43, but does not disclose the airlines are charter airlines.

BidJetCharter discloses a charter auction for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to auction Charter aircraft seats as taught by BidJetCharter in the invention of Shemesh ('939) for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.

20. Claim 36, 37, 38, 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt (6,711,548) in view of Shemesh (6,847,939).

As per Claim 36, 37, 38..

Rosenblatt ('548) further discloses taking reservations, but does not specifically disclose a specified price from a user.

Shemesh teaches taking specified user price bids for auctioning of airline tickets and instructions for the winning bidders to purchase tickets, see column 1, lines 33-43, but does not disclose the airlines are charter airlines for the benefit of providing customers with an.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to auction aircraft seats as taught by Shemesh ('939) for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.

As per Claim 71.

Rosenblatt ('548) does not specifically disclose an auction.

Shemesh teaches the auctioning of airline tickets and instructions for the winning bidders to purchase tickets, see column 1, lines 33-43, but does not disclose the airlines are charter airlines for the benefit of providing customers with an.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to auction aircraft seats as taught by Shemesh ('939) for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.

21. Claims 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt (6,711,548) in view of Ahlstrom et al (4,862,357).

As per Claim 53.

Rosenblatt ('548) further discloses selecting a most appropriate charter aircraft, see column 6, lines 12-27, but does not disclose user selection from a transmitted list.

Ahlstrom et al ('357) teaches an operator selecting from a sorted display of results, see figure 2 (50), for the benefit of giving customers travel options.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include receiving a user selection from a list of options for the benefit of giving customers travel options.

As per Claim 54.

Rosenblatt ('548) further discloses reserving, see column 6, lines 62-67.

As per Claim 55.

Rosenblatt ('548) further discloses notifying the charter aircraft operator, see column 8, lines 2-6..

22. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenblatt (6,711,548) in view of Shemesh (6,847,939) in view of BidJetCharter.

As per Claim 72.
Rosenblatt ('548) does not specifically disclose a reverse auction.
Shemesh teaches the auctioning of airline tickets and instructions for the winning bidders to purchase tickets, see column 1, lines 33-43, but does not disclose the airlines are charter airlines.
BidJetCharter discloses a charter auction for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.
Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to auction Charter aircraft seats as taught by BidJetCharter in the invention of Shemesh ('939) for the benefit of making charter planes more accessible and minimize empty legs to increase the earnings of charter airplane companies.

Prior Art Made of Record

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

AirCharter is the closest prior art that discloses making reservations for Charter airplanes online.

The Major Players discusses charter airline reservations related companies.
McCown (EP 1 058 200) discloses the FlightTime online service.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (571) 272-6803. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thomas A. Dixon
Primary Examiner
Art Unit 3639

May 05